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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,696	02/18/2004	Erwin Simnacher		9538

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HMTAG C/O STEFFEN STRAUSS  
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EXAMINER
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KHOLDEBARIN, IMAN K

ART UNIT	PAPER NUMBER
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3737

MAIL DATE	DELIVERY MODE
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05/04/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/779,696

Applicant(s)

SIMNACHER, ERWIN

Examiner

I Kenneth Kholdebarin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>02/18/2004</u> . | 6) <input type="checkbox"/> Other: ____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2. Claim 1-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Jaggy (6,471,662).

Re Claim 1: Jaggy discloses the shock wave apparatus for generating shock waves comprising of piezoelectric fibers (2) integrated in a composite material (edge regions material 4.1), (See Fig. 1, Col. 4, line 15-22).

Re Claim 2: Jaggy discloses that the piezoelectric fibers are integrated in composite material such that the direction of the acoustic waves is towards the area to be treated (focal point shows

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in Fig. 4 shows the direction that acoustic waves will be traveling to), (See Fig. 4, Col. 4, line 303-4).

Re Claim 3-8: Jaggy teaches the shock wave apparatus with piezoelectric fibers integrated in composite material and form at least one module with the composite material; spatial unit; and common electrically connected piezoelectric fibers; form different geometrically similar to the applicant disclosure; and where several of the these piezoelectric modules are arranged to be next one another. (See Fig. 1-3, Col. 4 line 15-40).

Re Claim 9 and 10: Jaggy discloses that the module of piezoelectric and the composite material are arranged on a carrier (5), (See Fig. 2 and Fig.4).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jaggy in view of Eizenhofer (US 5,119,801)

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Although Jaggy fails to suggest that that module carrier of the piezoelectrics are designed in an electrically conductive way, Eizenheofer teaches The electrical connection between the piezoelement and the membrane if present and between the elements themselves as well as the rear contact making obtains through a conductive coating on the carrier as a backing the connection may be made through soldering, bonding with an electrically conductive adhesive, (See Col.2, line 29-35). Eizenheofer further includes that the front of each individual element P is provided with a metal layer KV which, in turn, and in each instance is in direct electrical contact with spherically shaped membrane M, (See col. 3, Line 15-20).

Therefore in view of Eizenheofer it would have been obvious to one ordinary skill in the art at the time of the invention was made to connect the piezoelements (energy source of the shock wave) via a connector in order to have a uniform radiation emitting from the piezo-electrode module for elements being electrically interconnected to operate in parallel and mounted on a common carrier of curved, well known in the art.

Re Claim 15: Eizenhoefer discloses to use the shock wave device for medical treatment. (Col. 1, line 9-15).

### *Conclusion*

4. The prior art made of record and not relied upon is considered pertinent to applicants disclosure. Ein discloses Non-cylindrical acoustic wave device; Kurtze discloses Piezoelectric transducer for the destruction of concretions within an animal body; Wurster discloses Apparatus for dispersing fluids for dissolution or concretions in a bodily cavity; Jaggy discloses Acoustic

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therapy apparatus; Eizenhoefer discloses Piezoelectric shock wave generator; Aida discloses Apparatus for destroying a calculus.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to I Kenneth Kholdebarin whose telephone number is 571-270-1347. The examiner can normally be reached on M-F 8 AM- 4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 571-272-4956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

IKK  
Iman Kenneth Kholdebarin  
04/27/2007

  
ELENI MANTIS MERCADER  
SUPERVISORY PATENT EXAMINER